

**GOVERNMENT OF INDIA
LAW AND JUSTICE
LOK SABHA**

UNSTARRED QUESTION NO:847

ANSWERED ON:03.12.2015

Implementation of Court Judgements

Galla Shri Jayadev;Rao (Avnithi) Shri Muthamsetti Srinivasa

Will the Minister of LAW AND JUSTICE be pleased to state:

- (a) whether the Government is aware of the recent judgement of Madras High Court suggesting castration as punishment for child rapist as being followed in certain other countries;
- (b) if so, the details thereof and the reaction of the Government thereto;
- (c) whether the Government is aware of the recent judgement of Lucknow Bench of Allahabad High Court ruling that the child born out of rape has inheritance rights in the property of the biological father;
- (d) if so, the details thereof and the reaction of the Government thereto; and
- (e) whether the Government proposes to bring any legislation to implement the aforesaid court orders and if so, the details thereof and if not, the reasons therefor?

Answer

A N S W E R

MINISTER OF LAW AND JUSTICE

(SHRI D. V. SADANANDA GOWDA)

(a)and (b) The High Court of Madras in its judgement dated the 16th October, 2015 in the case of Jonathan Robinson Vs The Inspector of Police (Crl. O.P (MD) No. 11735 of 2014 and MP(MD) Nos. 1 to 8 of 2014) has,inter alia, directed the Central Government to consider the suggestion of "castration" to child abusers, particularly child rapists, as additional punishment apart from other punishments under the Protection of Children from Sexual Offence Act, 2012(32 of 2012), Indian Penal Code, 1860 and the Juvenile Justice (Care and Protection of Children) Act, 2000 (56of 2000) etc., in view of abnormal increase in Childs abuse cases".

(c)and (d)

(e)

The High Court of Allahabad (Lucknow Bench) in its judgment dated the 3rd November, 2015 in the case of "A" V/s State of U.P and Others (Writ Petition No. 8210 (M/B) of 2015) has not given any such ruling but in paras 73 and 75 of its judgement, it has observed as under:-

"73. We may observe here that in the matter relating to inheritance, the manner of birth of a person is irrelevant; the rights of inheritance of a person are governed by the Personal law to which the person is subject irrespective of the manner of birth of the person. It is irrelevant as to whether the newly born child of a rape victim is born out of consensual sex or otherwise. It is thus noted that the rights of inheritance of the newly born child would be governed by her Personal law and for that purpose she would be treated as an illegitimate child of her biological father".

"75. There is yet another aspect of this matter. The rights of inheritance in the property of a biological parent is a complex Personal Law right which is guided by either legislation or custom. It may not be possible to judicially lay down any norm or principle for inheritance by a minor who is born as a result of rape. Such attempt by the Court would amount to legislation by judicial pronouncement and would operate as precedent in times to come. It would not therefore be desirable to venture into this field and accordingly we leave it open for the appropriate legislature to deal with this complex social issue."

At present, no proposal is under the consideration of the Government in this regard.

(c)

(c)